

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

<b>GLEN W. DUCOTE,</b>	)	
	)	
Petitioner,	)	
	)	
v.	)	Civ.Act.No. 07-374-GMS
	)	
<b>ELIZABETH BURRIS</b> , Acting Warden	)	
and <b>JOSEPH R. BIDEN III</b> , Attorney	)	
General for the State of Delaware	)	
	)	
Respondents. <sup>1</sup>	)	

**MOTION FOR EXTENSION OF TIME**

Pursuant to Rule 6 of the Federal Rules of Civil Procedure, respondents move for an extension of time in which to file an answer to the petition. In support thereof, respondents state the following:

1. The petitioner, Glen W. Ducote, has applied for federal habeas relief, alleging error by the state courts. D.I. 1. By the terms of the Court's order, the answer is due to be filed on October 26, 2007.

2. Counsel continues to work on the response to the claims petitioner has raised in his petition. Per division policy, the Chief of the Appeals Division must review all filings prior to submission. Unfortunately, due to his own work load, he has been unable to do so in the instant matter. Counsel now anticipates that review of the response should be completed on or before November 1, 2007.

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<sup>1</sup> See Fed.R.Civ.P. 25(d)(1). Elizabeth Burris was named Acting Warden, effective September 1, 2007.

3. Under Habeas Rule 4, the Court has the discretion to give respondents an extension of time exceeding the 40-day limit in Civil Rule 81(a)(2). *Clutchette v. Rushen*, 770 F.2d 1469, 1473-74 & n.4 (9<sup>th</sup> Cir. 1985); *Kramer v. Jenkins*, 108 F.R.D. 429, 431-32 (N.D. Ill. 1985). The comment to Rule 4 expressly states that the district court has "the discretion to take into account various factors such as the respondent's workload" in determining the period of time that should be allowed to answer the petition.

4. This is respondents' second request for an extension of time in this case.

5. Respondents submit that an extension of time to and including November 1, 2007, in which to file an answer is reasonable. Respondents submit herewith a proposed order.

/s/Kevin M. Carroll  
Deputy Attorney General  
Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
(302) 577-8500  
Del. Bar. ID No. 4836  
Kevin.Carroll@state.de.us

DATE: October 26, 2007

**RULE 7.1.1 CERTIFICATION**

I hereby certify that I have neither sought nor obtained the consent of the petitioner, who is incarcerated and appearing *pro se*, to the subject matter of this motion.

/s/ Kevin M. Carroll  
Deputy Attorney General

Counsel for Respondents

Date: October 26, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that on October 26, 2007, I electronically filed the attached documents with the Clerk of Court using CM/ECF. I also hereby certify that on October 26, 2007, I have mailed by United States Postal Service, the same documents to the following non-registered participant:

Glen W. Ducote  
No. 210611  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

/s/Kevin M. Carroll  
Deputy Attorney General  
Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
(302) 577-8500  
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General for the State of Delaware	)	
	)	
Respondents.	)	

**ORDER**

This \_\_\_\_ day of \_\_\_\_\_, 2007,

WHEREAS, respondents having requested an extension of time in which to file an answer, and

WHEREAS, it appearing to the Court that the requested extension is timely made and good cause has been shown for the extension,

IT IS HEREBY ORDERED that respondents' answer shall be filed on or before November 1, 2007.

\_\_\_\_\_  
United States District Judge